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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,022	06/19/2003	Brent C. Gerberding	S63.2B-10964-US01	5691

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EXAMINER

ISABELLA, DAVID J

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,022

Applicant(s)

GERBERDING ET AL.

Examiner

DAVID J. ISABELLA

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 21-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20, 32-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/6/06; 8/11/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Status of the Claims***

This applicant is a RCE filed on 3/6/2006 and the amendment filed on 4/27/2006. Claims 1-39 are pending with claims 33-39 being newly presented. Claims 1-20 and 33-39 are under examination and claims 21-31 remain withdrawn from consideration as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20,32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwin et al (20020095205) in view of any of Ventura (2004/0044399), Burgermeister et al (20030069630), Gladdish, Jr. et al (20020193867), Edwin et al (6579314), Rivelli, Jr. et al (7037330), Bales, et al (6878162), Richter et al (6156052), Schnepf-Pesch et al (5707386) and further in view of any of Lombardi, et al (6203568),(200400115228), Hossainy et al (6635082) or Schaldach et al (20020103528).

Edwin et al discloses a stent comprising a tubular framework having an outer surface and an inner surface and a plurality of interconnected struts, an outer covering of PTFE and an inner covering of PTFE, the outer covering extending along at least a portion of the outer surface of the expandable framework, the inner covering extending along at least a portion of the inner surface of the expandable framework, at least a

portion of the inner and outer coverings being contiguous, the stent further comprising at least one radiopaque marker disposed between the inner covering and the outer covering. See illustrations of figures 3-5 and corresponding supporting portions of the specification. While Edwin et al earlier patent US 6579314 illustrates one embodiment in which the serpentine bands including a linear connector strut attaching a peak of one band to a trough of another. (See figure 11 ).

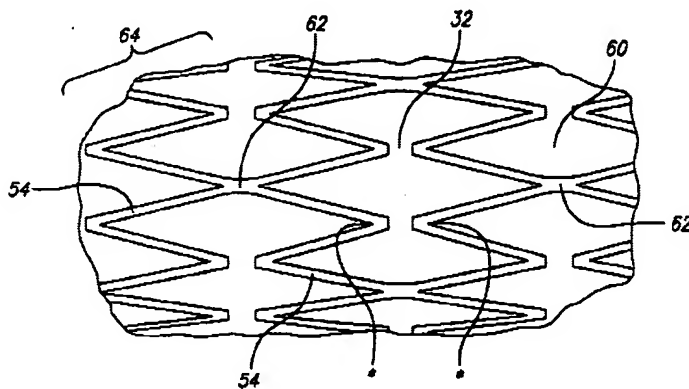


FIG. 11

Such configurations are well known in the prior art as shown by any of Rivelli, Jr. et al (7037330), Bales, et al (6878162), Richter et al (6156052) and Schnepf-Pesch et al (5707386). Moreover, Edwin does not disclose the particulars of the connector strut having at least one marker, however each of Ventura (2004/0044399), Burgermeister et al (20030069630) and Gladdish, Jr. et al (20020193867) illustrate markers disposed on or in the connector strut. To place markers at the location of the connector strut would have been an obvious equivalence from the teachings of any of Ventura (2004/0044399), Burgermeister et al (20030069630) and Gladdish, Jr. et al

(20020193867) based on design and engineering consideration. Moreover, conversely, to provide an inner and outer covering of ePTFE to the serpentine frame of any of Rivelli, Jr. et al (7037330), Bales, et al (6878162), Richter et al (6156052), Schnep-Pesch et al (5707386), Ventura (2004/0044399), Burgermeister et al (20030069630) and Gladdish, Jr. et al (20020193867) to provide better compatibility and tissue response would have been obvious from the teachings of Edwin et al.

Claims 2,3,4,7,9,10-13,20,32 see figures 3-5 and specification, paragraphs [0021-0027].

With respect to claims 5,6,8, the various methods for placing the markers in the stent system is taught by each of Lombardi, et al, Hossainy, et al and Schaldach et al. The marker (band) may be attached to the framework by crimping, embedding and/or coating a portion of the stent framework. The references teach various placements of the radiopaque marker including near or adjacent an uncovered region of the stent. To apply the marker to the stent via crimping, embedding and/or coating would have been obvious to one with ordinary skill in the art based upon engineering and design considerations.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwin et al (20020095205) in view of any of Ventura (2004/0044399), Burgermeister et al (20030069630), Gladdish, Jr. et al (20020193867), Edwin et al (6579314), Rivelli, Jr. et al (7037330), Bales, et al (6878162), Richter et al (6156052), Schnep-Pesch et al (5707386) and any of Lombardi, et al (6203568), (200400115228),

Hossainy et al (6635082) or Schaldach et al (20020103528) further in view of Nolting et al (6488701).

The use of stents for correcting cerebral vasculature is taught by Nolting, et al. If not inherent in Edwin et al to employ a stent to correct aneurysm would have been obvious to one with ordinary skill in the art based on medical considerations.

Claims 16-19, see various embodiments as illustrated by any of Ventura (2004/0044399), Burgermeister et al (20030069630, Gladdish, Jr. et al (20020193867), Lomabardi, et al, Hossainy, et al and Schaldach et al.

Claims 34-39, see Edwin et al (6579314) for the coating of the ePTFE with respect to the framework.

### ***Response to Arguments***

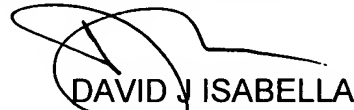
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment directed to placing the marker on the connector strut in a tubular framework having a linear connector for connecting adjacent peaks and troughs of serpentine bands necessitated new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

Art Unit: 3738

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID J ISABELLA  
Primary Examiner  
Art Unit 3738

DJI  
6/30/2006